

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 533 be amended to read as follows:

1 Page 6, between lines 30 and 31, begin a new paragraph and insert:
 2 "SECTION 3. IC 8-2.1-24-18 IS AMENDED TO READ AS
 3 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) 49 CFR
 4 Parts 382 through 387, 390 through 393, and 395 through 398 is
 5 incorporated into Indiana law by reference, and, except as provided in
 6 subsections (d), (e), (f), and (g), must be complied with by an interstate
 7 and intrastate motor carrier of persons or property throughout Indiana.
 8 Intrastate motor carriers subject to compliance reviews under 49 CFR
 9 385 shall be selected according to criteria determined by the
 10 superintendent which must include but is not limited to factors such as
 11 previous history of violations found in roadside compliance checks and
 12 other recorded violations. ~~However,~~ The provisions of 49 CFR 395 that
 13 regulate the hours of service of drivers, including requirements for the
 14 maintenance of logs, do not apply to a driver of a truck that is registered
 15 by the bureau of motor vehicles and used as a farm truck under IC 9-18,
 16 or a vehicle operated in intrastate construction or construction related
 17 service, or the restoration of public utility services interrupted by an
 18 emergency. Except as provided in subsection (i), intrastate motor
 19 carriers not operating under authority issued by the United States
 20 Department of Transportation shall comply with the requirements of 49
 21 CFR 390.21(b)(3) by registering with the department of state revenue
 22 as an intrastate motor carrier and displaying the certification number
 23 issued by the department of state revenue preceded by the letters "IN".
 24 Except as provided in subsection (i), all other requirements of 49 CFR
 25 390.21 apply equally to interstate and intrastate motor carriers.

(b) 49 CFR 107 subpart (F) and subpart (G), 171 through 173, 177 through 178, and 180, is incorporated into Indiana law by reference, and every:

- (1) private carrier;
- (2) common carrier;
- (3) contract carrier;
- (4) motor carrier of property, intrastate;
- (5) hazardous material shipper; and
- (6) carrier otherwise exempt under section 3 of this chapter;

must comply with the federal regulations incorporated under this subsection, whether engaged in interstate or intrastate commerce.

(c) Notwithstanding subsection (b), nonspecification bulk and nonbulk packaging, including cargo tank motor vehicles, may be used only if all the following conditions exist:

- (1) The maximum capacity of the vehicle is less than three thousand five hundred (3,500) gallons.
- (2) The shipment of goods is limited to intrastate commerce.
- (3) The vehicle is used only for the purpose of transporting fuel oil, kerosene, diesel fuel, gasoline, gasohol, or any combination of these substances.

All additional federal standards for the safe transportation of hazardous materials apply until July 1, 2000. After June 30, 2000, the maintenance, inspection, and marking requirements of 49 CFR 173.8 and Part 180 are applicable. In accordance with federal hazardous materials regulations, new or additional nonspecification cargo tank motor vehicles may not be placed in service under this subsection after June 30, 1998.

(d) For the purpose of enforcing this section, only:

- (1) a state police officer or state police motor carrier inspector who:
 - (A) has successfully completed a course of instruction approved by the Federal Highway Administration; and
 - (B) maintains an acceptable competency level as established by the state police department; or
- (2) an employee of a law enforcement agency who:
 - (A) before January 1, 1991, has successfully completed a course of instruction approved by the Federal Highway Administration; and
 - (B) maintains an acceptable competency level as established by the state police department;

on the enforcement of 49 CFR, may, upon demand, inspect the books, accounts, papers, records, memoranda, equipment, and premises of any carrier, including a carrier exempt under section 3 of this chapter.

(e) A person hired before September 1, 1985, who operates a motor vehicle intrastate incidentally to the person's normal employment duties and who is not employed as a chauffeur (as defined in IC 9-13-2-21(a)) is exempt from 49 CFR 391 as incorporated by this section.

(f) Notwithstanding any provision of 49 CFR 391 to the contrary, a person at least eighteen (18) years of age and less than twenty-one (21) years of age may be employed as a driver to operate a commercial motor vehicle intrastate. However, a person employed under this subsection is not exempt from any other provision of 49 CFR 391.

(g) Notwithstanding subsection (a) or (b), the following provisions of 49 CFR do not apply to private carriers of property operated only in intrastate commerce or any carriers of property operated only in intrastate commerce ~~while employed in construction or construction related service~~ **regardless of whether the carrier vehicle is of a class that requires a commercial driver's license:**

(1) Subpart 391.41(b)(3) as it applies to physical qualifications of a driver who has ~~applied for or holds a commercial driver's license (as defined in 49 CFR 391.21)~~ **been** diagnosed as an insulin dependent diabetic, if the driver has applied for and been granted an intrastate medical waiver by the bureau of motor vehicles **pursuant to this subdivision. The same standards and the following procedures apply for this waiver regardless of whether the driver is required to hold a commercial driver's license. An application for the waiver may be submitted by a driver after having been** completed and signed by a certified endocrinologist or the driver's treating physician attesting that the driver:

(A) is **not** otherwise physically ~~qualified~~ **disqualified** under Subpart 391.41 to operate a motor vehicle, **regardless of whether an additional disqualifying condition results from the diabetic condition**, and is not likely to suffer any diminution in driving ability due to the driver's diabetic condition;

(B) is free of severe hypoglycemia or hypoglycemia unawareness and has had less than one (1) documented, symptomatic hypoglycemic reaction per month;

(C) has demonstrated the ability and willingness to properly monitor and manage the driver's diabetic condition;

(D) has agreed to and, to the endocrinologist's or treating physician's knowledge, has carried a source of rapidly absorbable glucose at all times while driving a motor vehicle, has self monitored blood glucose levels one (1) hour before driving and at least once every four (4) hours while driving or on duty before driving using a portable glucose monitoring device equipped with a computerized memory; and

(E) has submitted the blood glucose logs from the monitoring device to the endocrinologist or treating physician at the time of the annual medical examination.

A copy of the blood glucose logs shall be filed along with the annual statement from the endocrinologist or treating physician with the bureau of motor vehicles for review by the driver

1 licensing medical advisory board established under IC 9-14-4.
2 A copy of the annual statement shall also be provided to the
3 driver's employer for retention in the driver's qualification file,
4 and a copy shall be retained and held by the driver while
5 driving for presentation to an authorized federal, state, or local
6 law enforcement official. **Notwithstanding the requirements**
7 **of this clause, the endocrinologist, the treating physician,**
8 **the driver licensing medical advisory board, or the bureau**
9 **of motor vehicles may establish a shorter period for the**
10 **medical examination required under this clause when**
11 **medical indications warrant.**

12 (2) Subpart 396.9 as it applies to inspection of vehicles carrying
13 or loaded with a perishable product. However, this exemption
14 does not prohibit a law enforcement officer from stopping these
15 vehicles for an obvious violation that poses an imminent threat of
16 an accident or incident. The exemption is not intended to include
17 refrigerated vehicles loaded with perishables when the
18 refrigeration unit is working.

19 (3) Subpart 396.11 as it applies to driver vehicle inspection
20 reports.

21 (4) Subpart 396.13 as it applies to driver inspection.

22 (h) For purposes of 49 CFR 395.1(l), "planting and harvesting
23 season" refers to the period between January 1 and December 31 of
24 each year. The intrastate commerce exception set forth in 49 CFR
25 395.1(l), as it applies to the transportation of agricultural commodities
26 and farm supplies, is restricted to single vehicles and cargo tank motor
27 vehicles with a capacity of not more than five thousand four hundred
28 (5,400) gallons.

29 (i) The requirements of 49 CFR 390.21 do not apply to an intrastate
30 carrier or a guest operator not engaged in interstate commerce and
31 operating a motor vehicle as a farm vehicle in connection with
32 agricultural pursuits usual and normal to the user's farming operation
33 or for personal purposes unless the vehicle is operated either part time
34 or incidentally in the conduct of a commercial enterprise.

- 1 (j) The superintendent of state police may adopt rules under
- 2 IC 4-22-2 governing the parts and subparts of 49 CFR incorporated by
- 3 reference under this section."
- 4 Renumber all SECTIONS consecutively.
(Reference is to ESB 533 as printed March 30, 2005.)

Representative Wolkins